

#770-101

DOCKET NO. 583-252-0 FWC DIV

A/FWC

65371 U.S. PTO
08/813950

REQUEST FOR FILE WRAPPER CONTINUING
APPLICATION UNDER 37 C.F.R. §1.62

DOCKET NO.
583-252-0 FWC DIV

PRIOR APPLICATION:
EXAMINER
SELLERS

GROUP ART UNIT
1501

83/03/97

ASSISTANT COMMISSIONER FOR PATENTS
Box FWC
Washington, D.C. 20231

This is a Request for filing a Continuation-in-Part Continuation Divisional application under
37 C.F.R. §1.62 of prior application Serial No. 08/603,765, filed on February 16, 1996,
entitled THERMOPLASTIC COATING AND BINDING AGENT FOR MEDICINAL FORMS

by the following inventor(s):

FULL NAME OF INVENTOR	FAMILY NAME ASSMUS	FIRST GIVEN NAME MANFRED	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY BICKENBACH	STATE OR FOREIGN COUNTRY GERMANY	COUNTRY OF CITIZENSHIP GERMANY
POST OFFICE ADDRESS	POST OFFICE ADDRESS ERBSENGASSE 9	CITY D-64404 BICKENBACH	STATE & ZIP CODE/COUNTRY GERMANY
FULL NAME OF INVENTOR	FAMILY NAME PETEREIT	FIRST GIVEN NAME HANS-ULRICH	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY DARMSTADT	STATE OR FOREIGN COUNTRY GERMANY	COUNTRY OF CITIZENSHIP GERMANY
POST OFFICE ADDRESS	POST OFFICE ADDRESS HANDELSTRASSE 40	CITY D-64291 DARMSTADT	STATE & ZIP CODE/COUNTRY GERMANY
FULL NAME OF INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY

The above-identified application in which no payment of Issue Fee, abandonment of, or termination of proceedings has occurred, is hereby expressly abandoned as of the filing date of this new application. Please use all of the contents of the prior application file wrapper, including the drawings, as the basic papers for the new application.

1. Enter the Amendment previously filed on _____ under 37 C.F.R. §1.116, but unentered, in the prior application.
2. A Preliminary Amendment is enclosed.

The filing fee is calculated on the basis of the claims existing in the prior application as amended at 1 and 2 above.

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS	16-20 =	0	x \$ 22 =	\$ 0
	INDEPENDENT	1- 3 =	0	x \$ 80 =	\$ 0
	MULTIPLE DEPENDENT CLAIMS			+ \$260 =	\$ 0
	LATE FILING OF DECLARATION			+ \$130 =	\$ 0
			BASIC FEE		\$ 770.00
			TOTAL OF ABOVE CALCULATIONS =		\$ 770.00
	Reduction by 50% for filing by Small entity				\$ 0
			TOTAL		\$ 770.00

3. The Commissioner is hereby authorized to charge fees under 37 C.F.R. §1.16 and §1.17 for the papers being filed herewith and for which no check is enclosed, or credit any overpayment to Deposit Account No. 15-0030.
4. A check in the amount of \$ 770.00 is enclosed.
5. A new Oath or Declaration is included since this application is a Continuation-in-Part which discloses and claims additional matter.
6. Amend the specification by inserting before the first line the sentence:
--This application is a Continuation-in-Part Continuation Division of application Serial Number 08/603,765, filed on February 16, 1996, now abandoned--.
7. A verified statement to establish Small Entity status under 37 CFR 1.9 and 1.27
 is enclosed.
 was filed in prior application Serial No. _____ and such status is still proper and desired (37 CFR 1.28(a)).

8. Priority of the following foreign application is claimed under 35 U.S.C. 119:

<u>Country</u>	<u>Application No.</u>	<u>Month/Day/Year</u>
Germany	G 295 02 547.6	February 16, 1995

The certified copy of the corresponding Convention Application:

was filed in prior application Serial No. 08/603,765 filed February 16, 1996.

(a) Application Serial No(s). _____ were filed in prior application Serial No. _____ filed _____; and

(b) Application Serial No(s). _____,

are submitted herewith

will be submitted prior to payment of the Final Fee.

are submitted herewith.

will be submitted prior to payment of the Final fee.

9. The prior application is assigned of record to ROEHM GMBH CHEMISCHE FABRIK. Recordation Date: February 16, 1996, Reel/Frame Nos: 7976/0151.

10. The power of attorney in the prior application is to one or more of the following:

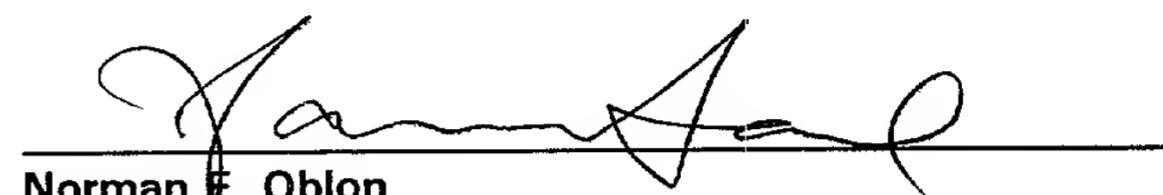
Norman F. Oblon, Reg. No. 24,618; Marvin J. Spivak, Reg. No. 24,913; C. Irvin McClelland, Reg. No. 21,124; Gregory J. Maier, Reg. No. 25,599; Arthur I. Neustadt, Reg. No. 24,854; Richard D. Kelly, Reg. No. 27,757; James D. Hamilton, Reg. No. 28,421; Eckhard H. Kuesters, Reg. No. 28,870; Robert T. Pous, Reg. No. 29,099; Charles L. Gholz, Reg. No. 26,395; Vincent J. Sunderdick, Reg. No. 29,004; William E. Beaumont, Reg. No. 30,996; Steven B. Kelber, Reg. No. 30,073; Robert F. Gnuse, Reg. No. 27,295; Jean-Paul Lavallee, Reg. No. 31,451; Timothy R. Schwartz, Reg. No. 32,171; Stephen G. Baxter, Reg. No. 32,884; Martin M. Zoltick, Reg. No. 35,745; Robert W. Hahl, Reg. No. 33,893; Richard L. Treanor, Reg. No. 36,379; Steven P. Weihrouch, Reg. No. 32,829; John T. Goolkasian, Reg. No. 26,142; Marc R. Labgold, Reg. No. 34,651; William J. Healey, Reg. No. 36,160; Richard L. Chinn, Reg. No. 34,305; Steven E. Lipman, Reg. No. 30,011; Carl E. Schlier, Reg. No. 34,426; James J. Kulbaski, Reg. No. 34,648; Catherine B. Richardson, Reg. No. 39,007; Richard A. Neifeld, Reg. No. 35,299; J. Derek Mason, Reg. No. 35,270; and Jacques M. Dulin, Reg. No. 24,067, all of the firm OBLON, SPIVAK, McCLELLAND, MAIER AND NEUSTADT, PC, Fourth Floor, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

11. If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136 for the necessary extension of time in the parent case. Any fees required for such an extension of time may be charged to Deposit Account No. 15-0030.

12. Also enclosed: Advance Serial No. Postcard

It is understood that secrecy under 35 U.S.C. §122 is hereby waived to the extent that if information or access is available to any one of the applications in the file wrapper of a 37 C.F.R. §1.62 application, be it either this application or a prior application in the same file wrapper, the Patent and Trademark Office may provide similar information or access to all the other applications in the same file wrapper.

Date: March 3, 1997



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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
MANFRED ASSMUS ET AL : EXAMINER: SELLERS
SERIAL NO: New Application : GROUP ART UNIT: 1501
FILED: Herewith :
FOR: THERMOPLASTIC COATING AND:
BINDING AGENT FOR MEDICINAL
FORMS

PRELIMINARY AMENDMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Preliminary to an action on the merits of this case,
please amend the above-identified application as follows.

IN THE CLAIMS

Please amend Claims 1, 3, 5, 7, 9, 11, 13, 15, and 17 to
20 to read as follows.

--1. (Amended) A method of coating and binding an oral
or dermal medicinal composition, comprising applying a
thermoplastic coating and binding agent in a hot-melt liquid
state to said oral or dermal medicinal composition, followed
by cooling to solidify the thermoplastic coating and binding
agent, wherein said thermoplastic coating and binding agent
[containing] comprises a non-homogeneous mixture of, based on
100% by weight of A and B:

A) 5-95% of a thermoplastic acrylic plastic with a melting temperature above room temperature and below 200°C, a glass transition temperature below 120°C, and a melt viscosity of 1,000 to 1,000,000 Pa·sec at the melting temperature; and

B) 95-5 wt% of a flow improver, which, at room temperature, is not compatible with the thermoplastic acrylic plastic, has a melting temperature above room temperature but below 200°C, a molecular weight under 20,000 d, and a melt viscosity below 100 Pa·sec at the melting temperature of the acrylic plastic.

3. (Amended) The method [thermoplastic coating and binding agent] according to Claim 1, wherein the thermoplastic acrylic plastic A is a copolymer of esters of acrylic and/or methacrylic acid.

5. (Amended) The method [thermoplastic coating and binding agent] according to Claim 3, wherein the thermoplastic acrylic plastic A is a copolymer of alkyl esters of acrylic and/or methacrylic acid and functional comonomers with covalently bound cationic groups.

7. (Amended) The method [thermoplastic coating and binding agent] according to Claim 5, wherein the thermoplastic acrylic plastic A is a copolymer of 5 to 99 wt% alkyl esters of acrylic and/or methacrylic acid and 95 to 1 wt% aminoalkyl esters or aminoalkylamides of acrylic and/or methacrylic acid or their salts or quaternary ammonium compounds thereof.

9. (Amended) The method [thermoplastic coating and binding agent] according to Claim 1, wherein flow improver B

is a fatty alcohol, a fatty acid, an ester of of a fatty alcohol and a fatty acid, a sugar, an ester thereof, a fatty acid mono-, di-, or triglyceride, a polyethylene glycol, a fatty acid ester or fatty alcohol ether thereof, a wax, or mixtures of any of the above.

11. (Amended) The method [thermoplastic coating and binding agent] according to Claim 3, wherein flow improver B is a fatty alcohol, a fatty acid, an ester of of a fatty alcohol and a fatty acid, a sugar, an ester thereof, a fatty acid mono-, di-, or triglyceride, a polyethylene glycol, a fatty acid ester or fatty alcohol ether thereof, a wax, or mixtures of any of the above.

13. (Amended) The method [thermoplastic coating and binding agent] according to Claim 5, wherein flow improver B is a fatty alcohol, a fatty acid, an ester of of a fatty alcohol and a fatty acid, a sugar, an ester thereof, a fatty acid mono-, di-, or triglyceride, a polyethylene glycol, a fatty acid ester or fatty alcohol ether thereof, a wax, or mixtures of any of the above.

15. (Amended) The method [thermoplastic coating and binding agent] according to Claim 7, wherein flow improver B is a fatty alcohol, a fatty acid, an ester of of a fatty alcohol and a fatty acid, a sugar, an ester thereof, a fatty acid mono-, di-, or triglyceride, a polyethylene glycol, a fatty acid ester or fatty alcohol ether thereof, a wax, or mixtures of any of the above.

17. (Amended) An oral or dermal medicinal composition containing a pharmaceutical active substance and [the] a thermoplastic coating and binding agent prepared by the method of Claim [2] 1.

18. (Amended) An oral or dermal medicinal composition containing a pharmaceutical active substance and [the] a thermoplastic coating and binding agent prepared by the method of Claim [4] 3.

19. (Amended) An oral or dermal medicinal composition containing a pharmaceutical active substance and [the] a thermoplastic coating prepared by the method and binding agent of Claim 5 [6].

20. (Amended) An oral or dermal medicinal composition containing a pharmaceutical active substance and [the] a thermoplastic coating and binding agent prepared by the method of Claim 7 [10].--

Please add the following new claims.

--21. An oral or dermal medicinal composition containing a pharmaceutical active substance and a thermoplastic coating and binding agent prepared by the method of Claim 9.

22. An oral or dermal medicinal composition containing a pharmaceutical active substance and a thermoplastic coating and binding agent prepared by the method of Claim 11.

23. An oral or dermal medicinal composition containing a pharmaceutical active substance and a thermoplastic coating and binding agent prepared by the method of Claim 13.

24. An oral or dermal medicinal composition containing a pharmaceutical active substance and a thermoplastic coating and binding agent prepared by the method of Claim 15.--

Please cancel Claims 2, 4, 6, 8, 10, 12, 14 and 16.

BASIS FOR THE AMENDMENT

The claims have been amended to a method of coating and binding an oral or thermal medicinal composition by applying a hot-melt of the defined thermoplastic coating and binding agent thereto, and the product resulting therefrom.

REMARKS

This is a division of Application Serial No. 08/603,765, filed February 16, 1996.

Claims 1, 3, 5, 7, 9, 11, 13, 15 and 17-20 and 21-24 are in the case.

The interview kindly granted by the Examiner, Mr. Sellers, on February 10, 1997 in the parent application is hereby acknowledged with appreciation. Consistent therewith, the application has been refiled to limit the claims to the defined method and resulting product, the nonelected invention in the parent application.

It was pointed out to the Examiner at said interview that the invention to which the claims have now been limited is not obvious from the cited art. The Examiner stated that he will

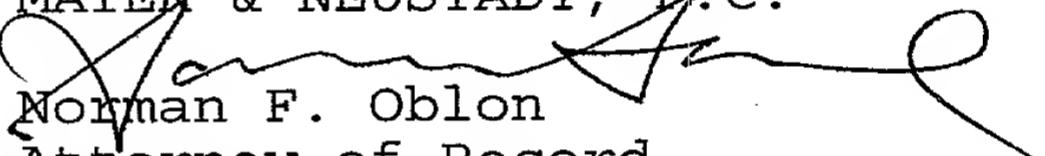
reconsider his position with regard to the present claims directed to a distinct invention.

Specifically, the references relied upon by the Examiner in the parent application neither disclose, nor make obvious, a method of coating and binding an oral or thermal medicinal composition by applying thereto a thermoplastic coating binding agent as particularly defined in a hot-melt liquid state followed by cooling, whereby the improvements and advantages discussed and shown in the specification are realized.

Accordingly, an action on the merits and allowance of the claims is solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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